UNITED NATIONS **TD**

United Nations Conference on Trade and Development

Distr.
GENERAL

TD/RBP/CONF.5/15
4 October 2000

Original: ENGLISH

Fourth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices
Geneva, 25 September 2000
Agenda item 6

REVIEW OF ALL ASPECTS OF THE SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES

Resolution *

The Fourth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Principles and Rules for the Control of Restrictive Business Practices,

Having reviewed all aspects of the Set of Multilaterally Agreed Principles and Rules for the Control of Restrictive Business Practices, 20 years after its adoption, and recognizing the positive contribution made by the Set, by the Expert Meeting on Competition Law and Policy and the 1998 and 1999 sessions of the Intergovernmental Group of Experts on Competition Law and Policy to the promotion of competition,

Noting the major changes which have taken place in the world economy, including the role of TNCs and the reforms introduced by the developing countries and countries with economies in transition in recent years towards liberalization of economies and development of competition laws and policies,

---

* As adopted at the final (closing) plenary on Friday, 29 September 2000.

GE. *0000524 81*
ENG

Taking note of the decisions on competition issues adopted by UNCTAD X in paragraphs 140-143 of the Bangkok Plan of Action (TD/386),

Noting also the concern that globalization should be made more efficient and equitable, as called for in the Bangkok Declaration (TD/387, para. 4) in which the Conference declared that "in addition to national efforts, the international community as a whole has the responsibility to ensure an enabling global environment through enhanced cooperation in the fields of trade, investment, competition and finance",

Taking into account the proposals contained in the agreed conclusions adopted by the Intergovernmental Group of Experts on Competition Law and Policy at its second session (TD/B/COM.2/19), as well as the recommendations made by the regional and subregional seminars in Jaipur (India) for Asia and the Pacific; Kiev (Ukraine) for Central and Eastern Europe and the CIS member countries; Casablanca (Morocco) for African and Arab countries; Livingstone (Zambia) for Southern and East Africa; and San José (Costa Rica) for Latin America and the Caribbean,

Recalling the Bangkok Declaration, which emphasizes the interlinkages which still exist between equity and efficiency in the globalization process and the crucial role that competition law and policy, with its concern for both economic efficiency and consumer welfare, play in making such interlinkages operational; without controls on anti-competitive practices, it is unlikely that all the benefits of liberalization and globalization will be passed on to consumers,

Convinced of the need to disseminate the culture of competition,

1. Reaffirms the validity of the UN Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, recommends to the General Assembly to subtitle the Set for reference as "UN Set of Principles and Rules on Competition", and calls upon all member States to implement the provisions of the Set;

2. Reaffirms further the fundamental role of competition law and policy for sound economic development, and recommends the continuation and strengthening of the important and useful work programme within UNCTAD's secretariat and the intergovernmental machinery that addresses competition law and policy issues and proceeds with the active support and participation of competition law and policy authorities of member countries;

3. Further recommends that the General Assembly convene a Fifth United Nations Conference to Review all Aspects of the Set of Principles and Rules on Competition, to be held in Geneva, under UNCTAD auspices, in the year 2005;

4. Invites UNCTAD's Commission on Trade in Goods and Services, and Commodities, at its next session, to consider convening an Expert Meeting on Consumer Policy as a distinct body from the Intergovernmental Group of Experts on Competition Law and Policy;

5. Calls upon States to increase cooperation at all levels between their competition authorities and Governments in order to strengthen effective action in the field of merger control and against cartels as covered by the Set, especially when these occur at the international level;

6. Notes that, while bilateral competition cooperation efforts are essential, there is need to promote regional as well as multilateral competition initiatives, particularly for smaller and developing economies, and requests the UNCTAD secretariat to study the possibility of formulating a model cooperation agreement on competition law and policy, based on the UN Set of Principle and Rules on Competition;

7. Takes note with appreciation of the documentation prepared by the UNCTAD secretariat for the Conference, and requests the secretariat to revise documents TD/RBP/CONF.5/4, TD/RBP/CONF.5/5, TD/RBP/CONF.5/6 and TD/RBP/CONF.5/7 in the light of comments by member States made at the Conference or to be sent in writing by 31 January 2001 for submission to the next session of the Intergovernmental Group of Experts on Competition Law and Policy, and make them available through UNCTAD's Website;

8. Decides that the Intergovernmental Group of Experts on Competition Law and Policy at its 2001 session will consider the following issues for better implementation of the Set, in relation to the studies prepared by the UNCTAD secretariat:

(a) Cooperation regarding merger control;

(b) The interface between competition policy and intellectual property rights;

9. Requests further the Secretary-General of UNCTAD to take stock of anti-competitive cases with effects in more than one country, and the problems encountered in investigating the cases, to study the degree of efficiency of cooperation between competition authorities and governments in solving them;

10. Commends the secretariat on the revised Model Law (TD/RBP/CONF.5/7) and its new format, takes note that the commentaries contained therein do not affect the discretion of countries to choose policies considered appropriate for themselves, and requests the UNCTAD secretariat to revise periodically the commentary to the Model Law in the light of legislative developments and comments made by member States for consideration by future sessions of the Intergovernmental

Group of Experts on Competition Law and Policy, and to disseminate widely the Model Law an its commentary as revised;

11. Requests the secretariat to prepare for the Intergovernmental Group of Experts o Competition Law and Policy in 2001 a new chapter of the model law on the relationship between competition authority and regulatory bodies, including sectoral regulators;

12. Requests the secretariat to continue to publish the following documents on a regular basi and to make them available on the Internet:

(a) Further issues of the Handbook on Competition Legislation, including regional and international instruments, which should be complemented with a summary of th main provisions of competition laws on the basis of inputs to be submitted b member States;

(b) An updated version of the Directory of Competition Authorities; and

(c) An information note on recent important competition cases, with special reference to competition cases involving more than one country, and taking into accoun information to be received from member States;

13. Takes note with appreciation of the new UNCTAD Competition Law and Policy Websit and requests that forecasted events such as seminars and other assistance be indicated as far a possible in advance to allow member States to be informed and to be in a position to participate i the technical assistance activities organized or sponsored by UNCTAD;

14. Takes note with appreciation of the voluntary financial and other contributions for capacit building and technical cooperation, and invites all member States to assist UNCTAD on voluntary basis in its technical cooperation by providing experts, training facilities or resource requests the UNCTAD secretariat to continue and, resources permitting, expand its technica cooperation activities; and invites the Secretary-General of UNCTAD to explore the feasibility o mobilizing financial and human resources on a more predictable and regular basis and to addres the cooperation needs of developing countries and economies in transition in the relevant offici languages of the United Nations;

15. Decides that, in the light of the UNCTAD X Plan of Action (TD/386) as it relates t competition issues, the Intergovernmental Group of Experts on Competition Law and Polic should draw up its work plan along the lines indicated below.

A. Institutional capacity building

16. In accordance with the mandate given in the Bangkok Plan of Action and within available resources, UNCTAD should continue to provide and where possible expand, in coordination with member States and with other international organizations active in this field, its technical assistance, advisory and training services by *inter alia*:

(a) Exploring and clarifying methodologies for defining relevant markets and assessing market power;

(b) Increasing the effectiveness of training and technical assistance through regular experience sharing and by setting up regional forums;

(c) Supporting efforts to advise and coordinate competition initiatives in national, regional and international fora, in particular by providing advice on all aspects of the establishment of competition authorities and continuing to organize regular meetings of competition authorities at the regional level;

(d) Including the subject of competition law and policy in the syllabus of training courses envisaged in paragraph 166 of the Bangkok Plan of Action; developing a syllabus on competition law and policy, including economic analysis used in enforcing competition law, to be used by trainers in interested countries, including through available regional training centres and postgraduate programmes in universities.

B. Competition advocacy and educating the public

17. UNCTAD should:

(a) Provide support to public authorities on competition and on consumer protection and assist them in educating the public and representatives of the government and private sectors in the field of competition law and policy;

(b) Promote competition advocacy activities by competition authorities in developing countries and countries with economies in transition;

(c) Study the feasibility of establishing a UN World Competition and Consumer Day as a means of publicizing benefits to consumers of competition policy and educating the public at large.

C. Studies on competition, competitiveness and development

18. UNCTAD should continue to study the issues of competition, competitiveness and development with particular emphasis on:

(a) Merger control issues, including in the process of privatization;

(b) Recalling paragraph 143 of the Bangkok Plan of Action, studying, clarifying and monitoring, including through specific country and case studies, the relationship between competition and competitiveness, as well as trade-related aspects of competition in accordance with the Set;

(c) Periodically publishing information on mergers and acquisitions, particularly as they affect the development and integration of developing countries and countries in transition into the world economy;

(d) Priorities of implementation and enforcement of competition policy and their relationship with the existence of an important informal sector in developing countries;

(e) The benefits of competition law and policy for consumers and in poverty alleviation;

(f) The benefits of competition policy for economic development;

(g) The links between competition policy and foreign investment;

(h) The implications of competition policy for small and micro economies and the opportunities for regional integration schemes in this field;

(i) The importance of competition policy in privatization and deregulation exercises;

(j) Undertaking, through a comparative study, an inventory of the scope and coverage of existing competition legislation, including sectoral exceptions, and implications for developing countries' development policies;

(k) The relationship between competition policy and promotion of SMEs.

D. Inputs to possible international agreements on competition

19. UNCTAD should continue to provide inputs to deliberations on possible international agreements on competition, including with respect to the following items:

(a) Pursuing consensus building activities by organizing national and regional meetings that could clarify competition issues and contribute to a better understanding of such issues;

(b) Contributing to identifying the goals and objectives of developing countries in competition law and policy;

(c) Exploring the effectiveness and complementarity of cooperation at bilateral, regional, plurilateral and multilateral levels;

(d) Clarifying the ways in which possible international agreements on competition might apply to developing countries, including through preferential or differential treatment, with a view to enabling them to introduce and enforce competition law and policy;

(e) Studying the roles of possible dispute mediation mechanisms and alternative arrangements, including voluntary peer reviews, in competition law and policy.